

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Truth-in-Billing) CC Docket No. 98-170
And)
Billing Format)

COMMENTS

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SUMMARY

BellSouth Corporation and its subsidiary and affiliated companies (collectively “BellSouth”) strongly support the Commission’s efforts relating to the improvement of bill format and clarity as outlined in the *Notice of Proposed Rulemaking* recently released in CC Docket No. 98-170. BellSouth believes that the Commission can provide leadership to the industry and a forum to address the problems related to multiple billing formats and can enhance the possibility of finding solutions to those problems on a national level. BellSouth recognizes that the Commission and state regulatory agencies have concurrent authority over carrier billing. BellSouth urges the Commission to work closely with the states to develop guidelines for a basic bill format and content sufficiently flexible to be applied to services provided by telecommunications carriers to customers anywhere in the country.

BellSouth believes that the Commission should not impose billing content and format requirements on CMRS providers. The Commission initiated this NRPM based upon the increased number of complaints filed by end-user customers relating to the inadequacy of information provided on telephone bills. BellSouth shows that there is no significant level of complaints concerning CMRS bills. Most CMRS customers have contracts with their provider, which outline the rates and charges that will appear on the bill. Customers desiring to make any change to their service contact the provider directly and make the change. Also, in the competitive CMRS market providers cannot afford to be misleading or deceptive in their billing practice because customers can easily change providers.

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COMMENTS

BellSouth Corporation and its subsidiary and affiliated companies (collectively “BellSouth”) file these comments in response to the *Notice of Proposed Rulemaking* (“NPRM”) issued in the above-captioned docket.¹

I. INTRODUCTION

The Commission has sought public comment as to certain measures aimed at producing bills for telecommunications services which are clearer in their presentation and more informative to consumers. The NPRM rightly observes that ambiguities in bill format and inadequacies in service description and provider identification impede consumers in exercising informed choice in their selection of services and contribute to the incidence of “slamming” and “cramming” by a minority of unscrupulous providers.²

BellSouth strongly supports the Commission’s effort to enhance bill clarity and provide telecommunications service customers with the information they need to make informed purchasing decisions in an increasingly competitive market. As recently demonstrated through

¹ *In the Matter of Truth-in-Billing and Billing Format*, CC Docket No. 98-170, FCC 98-232, *Notice of Proposed Rulemaking*, released September 17, 1998.

² As stated in the NPRM, slamming is generally understood to be “the unauthorized change of a subscriber’s selected carrier for telephone exchange service or telephone toll

the forum to address cramming abuse,³ the Commission can provide vital leadership to the industry in developing solutions to those problems which have become pervasive in service billing. Nevertheless, in fulfilling this role, the Commission should not sacrifice flexibility to expediency by the adoption of a plethora of new billing rules. In addition, it must be recognized that no amount of billing reform can supplant the need for vigorous enforcement action at the Federal and state level against that minority of service providers seeking to profit through deceptive and unethical business practices.

II. LEGAL AUTHORITY

BellSouth concurs in the NPRM determination that the Commission has authority under Title II of the Communications Act, 47 U.S.C. § 201 *et seq.* to regulate common carrier billing to end users of that carrier's own interstate services and ancillary jurisdiction under Title I, 47 U.S.C. § 151 *et seq.*, to regulate a carrier's provision of interstate billing services on behalf of another carrier. It is also clear that concurrent authority is exercised by state commissions with respect to the billing of intrastate telecommunications services.⁴ Finally, various Federal and state agencies responsible for the enforcement of consumer protection legislation may impose certain requirements on the billing function in the discharge of their statutory mandate.⁵

service." NPRM at n. 5. Cramming is defined as "the practice of causing unauthorized, misleading, or deceptive charges to be placed on consumers' telephone bills." NPRM at ¶ 3.

³ *FTC Takes Alleged 'Crammers' to Court; Kennard Seeks LECs' Help*, Telecommunications Reports, April 27, 1998, at 12.

⁴ *See Louisiana Pub. Serv. Comm'n v. F.C.C.*, 476 U.S. 355 (1986) (holding that Section 152(b) reserves to the states regulatory oversight of intrastate services, notwithstanding that exercise of state authority may affect or even impede the realization of Federal policy goals).

⁵ Notable among these is the Federal Trade Commission, which recently announced proposals expanding coverage of the "900-Number Rule" to encompass all audiotext services and offering new protections to consumers against cramming abuse. Federal Trade Commission, *Commission to Seek Public Comment on 900-Number Rule Revisions* (Oct. 23, 1998) <http://www.ftc.gov/opa/1998/9810/ninerule.htm>.

The multiplicity of regulatory authorities—and in particular the dual jurisdiction exercised by this Commission and state public utility commissions—makes it imperative that the Commission work closely with states to develop guidelines for bill format and content which are acceptable in both jurisdictions. In the absence of such coordination, a multi-state provider like BellSouth faces potentially conflicting requirements, which will add significantly to the complexity and cost of the billing function. In addition, such disparate requirements are confusing to multi-state customers (both business and residential) and thus defeat the NPRM's intent to enhance clarity and information content of service bills.

Apart from the non-exclusive nature of the Commission's jurisdiction, its rulemaking authority in this proceeding is circumscribed by First Amendment protections accorded to commercial speech and by the fact that the telephone bill is used as a billing vehicle by numerous parties (*e.g.*, information service providers) whose activities are not subject to regulation under the Communications Act.

III. BILL FORMAT—ISSUES RELATED TO WIRELINE PROVIDERS

The Commission requests comment on various proposals intended to improve bill presentation. One such measure would require physical separation in the bill (*e.g.*, through separate pagination) of billed services by service category. Alternatively, services could be grouped by service provider. Other proposals include the addition of a section to summarize the current status of services on the customer account and a section to highlight any change activity from the preceding billing cycle.⁶

⁶ The current status section would include such information as the identity of presubscribed carriers (interstate, intrastate toll, local exchange), identification of other providers on whose behalf charges are billed and the existence of any preferred carrier (PC) freeze or other blocking mechanism applied to the account. The changes section would highlight any

BellSouth favors (and currently practices) organization of the bill by service provider. Using this format, a separate page is provided for each entity billing charges. Billing aggregators (clearinghouses) are likewise allotted separate pages. Each provider's name and a toll-free number are prominently displayed at the top of the page, followed by an itemization of the charges. On clearinghouse pages, a separate section is provided for each service provider billing charges, with the service provider name preceding the section containing that provider's charges.⁷

BellSouth organizes by service category today as a secondary sort and recommends this method. An exception, however, needs to be made for packages of services. Packages, which offer consumers opportunities to leverage their purchases and receive better pricing, are becoming more commonplace across the industry and frequently cross categories of service. BellSouth recommends that these offerings be shown in a unique section for packaged services.

The inclusion of a summary page organized by services is contraindicated by customers' expressed wish for a shorter and simpler bill. A summary page would include no information not already contained in the itemized billing descriptions and would significantly increase paper, printing and postage costs of bill production. In addition, extensive software changes would be necessary to BellSouth billing systems to enable carriers to remit information for a service summary page which is separate from information appearing on the bill page.

differences in such data from the information reported on the immediately preceding bill. NPRM at ¶¶ 18-19.

⁷ The NPRM notes that some unscrupulous providers have adopted names suggestive of a service offering, usually for the purpose of concealing slamming activity. NPRM at ¶ 16. Within BellSouth's region, common carriers are subject to state certification requirements. As billing agent, BellSouth requires that the name of the service provider appearing on the bill match the name on the state-granted certification, to the extent space limitations allow.

On similar grounds BellSouth opposes the suggested use of a service change page. BellSouth does not maintain subscriber information regarding services it bills on behalf of third parties. Massive revisions would be needed in order to store such information in sufficient detail to permit system recognition of month-to-month changes at either a provider or service level.⁸

As an alternative to service summary/service change pages, BellSouth suggests the use of a summary page, displaying the names of service providers and/or clearinghouses whose billing is included on the bill and the total amount billed by each. Providers billing through clearinghouses would not be separately identified on the summary page but would be included in the clearinghouse total. This proposal has received favorable comment by customer focus groups and is presently under consideration by BellSouth.

Finally, any consideration of formatting guidelines must recognize that to a degree the present billing format is the result of state mandate. Certain elements of this format—adopted to meet the requirements of various state commissions—have produced a bill which does not look the same in all jurisdictions.⁹ Feedback from focus groups confirms that this situation generates

⁸ It should be noted that BellSouth bills already display any change in a customer's preferred carrier, provided this information is conveyed to BellSouth through receipt of a CIC code change. (A change of customer service to a switchless ("CIC-less") reseller cannot be detected by BellSouth through normal procedures). At present, BellSouth displays a change in preferred carrier in the Other Charges and Credits section of the BellSouth portion of the bill. This display includes the name of the preferred carrier and the date of change. During the first half of 1999, BellSouth will implement an additional feature on the first page of the bill to aid customers, which displays a notice that the preferred carrier has changed. The name of the preferred carrier and the date of change will continue to be shown in the Other Charges and Credits section. Additionally, BellSouth does not oppose periodic itemization of recurring monthly charges according to the following schedule: (1) on the first bill; (2) on the bill following any change to service plans or features; and (3) annually.

⁹ For example, North Carolina requires separate pages for regulated and nonregulated charges. Florida does not require separate pagination but does require nonregulated charges to be identified with an asterisk. Other states have no requirements for distinguishing regulated from nonregulated charges. There are also varying state requirements for service itemization. In Florida, itemization must be a feature of each monthly bill; in Georgia and

significant confusion among customers who relocate to a state employing a different billing format. The same circumstances make it difficult for BellSouth to accommodate customers who desire a single bill for services rendered in multiple states and customers whose practice is to remit all bills to a single location for payment disbursement. For all these reasons the need for a national consensus on basic bill presentation requirements (to the extent this is achievable) can hardly be overstated.

Notwithstanding the advantages of uniformity, any guidelines adopted through this proceeding must also be sufficiently flexible to accommodate variations in the technological capabilities of billing companies and expressed customer preferences. With respect to the latter, many large business customers of BellSouth have requested bills to be rendered electronically (*e.g.*, by magnetic tape, CD-ROM, diskette, Internet), allowing organization and analysis of bill content in various formats. The increased use of on-line billing has created a demand among both business and residential customers for individualized formatting options (*e.g.*, separation of reimbursable expenses from non-reimbursable, expense tracking by employee or family member). Ultimately, BellSouth hopes to extend these options to recipients of the paper bill. The Commission's formatting guidelines should not be so narrowly drawn as to impede these initiatives.

IV. SERVICE DESCRIPTIONS—ISSUES RELATED TO WIRELINE PROVIDERS

In BellSouth's experience, complaints of inadequate or unclear service descriptions are most frequently associated with third-party charges for miscellaneous services. BellSouth has a policy requiring that service descriptions intended to describe such billing be submitted to

Kentucky itemization must be provided only on request; in Louisiana there is a requirement for annual itemization.

BellSouth for prior review and approval. Currently, the third party service provider is allowed to use two 12-character fields for transmitting the pre-approved description. No mechanism exists at this time for screening or editing to insure that the phrase submitted matches the description approved by BellSouth. Ultimately, BellSouth has scheduled implementation of a table of approved service descriptions, which can be accessed by the provider as the billing record is submitted. This will insure that only approved descriptions appear on the BellSouth bill. In conjunction with establishing table-driven phrases, BellSouth will expand the program field size now allotted to the service description to permit greater detail on this element of the billing statement.

BellSouth concurs in the NPRM proposals to require identification of both the service provider (in the case of resold services, the reseller) and the billing clearinghouse (if applicable).¹⁰ All such information is currently available on BellSouth statements and is undoubtedly of value to the consumer. Nevertheless, with particular reference to reseller identification, it must not be assumed that inclusion of this information on the billing statement is alone sufficient to prevent the slamming activity described in the NPRM.¹¹ In BellSouth's region, this form of slamming remains a problem, largely because it can be effected without the necessity of processing a preferred interexchange carrier ("PIC") change through the local exchange provider. Since the PIC code is used to identify network routing, BellSouth's system does not recognize a change where the facilities of the same underlying carrier continue to be

¹⁰ NPRM at ¶ 23. Providers billing through a clearinghouse should be permitted to purchase customer care functions from the clearinghouse (as frequently occurs today). In this event, a single clearinghouse number for customer inquiries/complaints is appropriate on the billing statement.

¹¹ *Id.*

used for call transport. Hence, even the application of a PIC freeze to the account will not prevent this abuse of consumers.

To address this problem, BellSouth supports the use of a carrier identification code (CIC) for all service providers including “switchless” resellers. The CIC is a unique identifier. CIC assignment to each service provider would enable LEC records to reflect the entity that is actually billing calls to the end user customer. This identification would, in turn, facilitate the detection of slamming and permit faster resolution of PIC disputes.

The CIC Ad Hoc Working Group to the North American Numbering Council (NANC) and many industry members, including BellSouth, support elimination of the requirement that a service provider purchase a Feature Group D (FGD) trunk as a prerequisite for CIC assignment. The Commission should adopt this recommendation and approve CIC use for resellers, as it has been urged to do in a recent rulemaking.¹²

In BellSouth’s view, opening CIC assignment to resellers constitutes the most potent measure to combat slamming which has been identified to date. To address cramming, BellSouth and other industry members have suggested consideration of a bill block in the Anti-Cramming Best Practices Guidelines, which will enable end users to specify those companies from which they will (or will not) accept billing. Such a service provided by the LEC would have limited effectiveness, however, unless supported by a national registry of telecommunications service providers, which would assign a unique identifier to each service

¹² See Administration of the North American Numbering Plan Carrier Identification Codes (CICs), CC Docket No. 92-237, *Further Notice of Proposed Rulemaking and Order*, released October 9, 1997, and BellSouth *Comments*, March 6, 1998; *Report and Recommendations of the CIC Ad Hoc Working Group to the North American Numbering Council (NANC) Regarding Use and Assignment of Carrier Identification Codes (CICs)*, February 18, 1998, at ¶¶ 11-13. “Specifically, translations access will facilitate the assignment of CICs to

provider. Without national registration, a service provider billing through multiple clearinghouses (and accordingly assigned multiple sub-CIC identities by the clearinghouses) can continue to remit billing to an end user who has requested a billing block unless all sub-CICs applicable to that provider are identified in the blocking request. If, on the other hand, each provider is assigned a single and unique identifier, end user customers will be able effectively to designate the provider from whom they elect either to block or to accept billing. Provision of such a service would also be contingent upon enhancements to billing system software and modifications of BellSouth's existing contractual arrangements for third-party billing to make these subject to an end user bill block option.

BellSouth maintains that consumers should be informed of the distinction between “deniable” and “non-deniable” charges and that all “non-deniable” charges should be identified as such, whether or not they pertain to pay-per-call services. This can best be accomplished by means of an asterisk next to “non-deniable” charges and an explanatory footnote on the front summary page of the bill. End user customer feedback further indicates that segregation of these charges on a separate bill page is not a favored formatting option and interferes with other, more informative, sorting.¹³

V. PROVISION OF INQUIRY/COMPLAINT INFORMATION—ISSUES RELATED TO WIRELINE PROVIDERS

Each provider of billed services should include on the bill page a toll-free telephone number which consumers may contact to obtain account information and/or register a

resellers, and thereby allow easier identification of these type service providers, enhancing the ability to resolve conflicts, including disputes which involve slamming.” *Id.* at ¶ 12.

¹³ Currently BellSouth is required by some states to distinguish “regulated” from “nonregulated” charges. Customers have advised that this information is not very meaningful.

complaint.¹⁴ The inclusion of a business address will not significantly enhance consumers' ability to contact the billing entity, is unlikely to be the method chosen by consumers to initiate contact and will consume valuable space on the bill page. Accordingly, BellSouth does not favor a requirement to provide business address.

Assuring that customers who dial the toll-free number receive a timely and adequate response to their billing inquiries presents a far more challenging problem. Billing LECs cannot mandate customer service standards for other providers; however, to encourage the maintenance of satisfactory standards by third-party providers, the Anti-Cramming Best Practices Guidelines adopted by BellSouth and other billing LECs suggest the implementation of certain complaint thresholds, which may be applied to identify those providers/services generating an unacceptable level of complaints to LEC business offices.¹⁵ Failure to achieve the thresholds over a stated period of time will trigger certain actions by the LEC pursuant to the billing contract, up to and including the termination of billing service.¹⁶

It may be hoped that a substantial number of billing LECs will adopt threshold requirements and similar provisions, which will encourage a higher standard of customer service

In fact, for end user customers, the distinction between "deniable" and "nondeniable" is much more important.

¹⁴ Providers billing through a clearinghouse should be permitted to list the clearinghouse number, when responsibility for customer care functions is assigned to the clearinghouse under the billing agreement.

¹⁵ See *FCC and Industry Announce Best Practices Guidelines to Protect Consumers from Cramming*, FCC Press Release (July 22, 1998). One such threshold would be derived from the ratio of escalated complaints (as contractually defined) to bills rendered by the service provider. Alternatively, LECs might choose measurements based upon the number of billing adjustments to the third-party provider service or billing inquiries concerning such service received by LEC customer contact centers.

¹⁶ Under current billing agreements BellSouth may only charge the higher "Inquiry Service" rate when it receives a substantial volume of end user complaints arising from an inability to contact the service provider.

throughout the industry. Nevertheless, attainment of this goal must ultimately depend upon the exercise of regulatory oversight by the Commission and the states and the willingness of regulators to act decisively to enforce all existing rules in cases of egregious neglect of customer service obligations.

VI. ISSUES RELATED TO WIRELESS PROVIDERS

The Commission should not impose billing content and format requirements on Commercial Mobile Radio Service (CMRS) providers. The impetus for this proceeding was the “tremendous growth in consumer complaints” resulting from misleading or unclear billing practices.¹⁷ No reference is made, however, to consumer complaints filed against CMRS providers for misleading or unclear billing practices. In the absence of a compelling record that the CMRS industry’s billing practices are problematic, the Commission should not regulate billing for CMRS services.

Congress has recognized that regulation of CMRS billing practices is unnecessary. As the Commission states, “Congressional concern over confusing and misleading telephone bills has resulted in pending legislation to regulate telephone bill format.”¹⁸ The Commission fails to acknowledge, however, that the proposed legislation expressly carves out CMRS services from regulation because the number of slamming complaints in the CMRS industry has been negligible.¹⁹ Given that Congress has excluded CMRS from its proposed legislation regarding billing format and practices, the CMRS industry should similarly be exempt from any FCC

¹⁷ NPRM at ¶¶ 2-3.

¹⁸ *Id.* at ¶ 5 (referencing S.1618, 105th Cong., 2d Sess. (1998)).

¹⁹ S. Rep. No. 105-183, at 8 (1998) (stating that “[t]he Committee intends to exempt [commercial mobile radio service] providers from section 258 of the Communications Act because, within the commercial mobile service industry, the number of slamming complaints has been negligible.”).

regulations relating to billing. The Commission should not impose a complex and expensive regulatory scheme on the CMRS industry without good reason. In this field, there is no evidence of a problem requiring a solution.

The CMRS industry should not be subject to billing regulation because it is vastly different from traditional local and interexchange services. Unlike local exchange and interexchange services, the terms and conditions of CMRS services are typically provided in writing before a consumer obtains service. In cellular, for example, a consumer generally signs up for service pursuant to a contract that clearly articulates the rates, terms and conditions for service. Similarly, although some Personal Communications Service (PCS) carriers do not require a contract, the terms and conditions of service are clearly provided with the handset that the customer must obtain prior to initiating service. The provision of terms and conditions in writing prior to obtaining services is likely one of the main reasons slamming and billing format complaints are virtually nonexistent in the CMRS industry.²⁰

Another principal reason for the lack of slamming complaints in the CMRS industry is that requests for change or addition to a customer's services must generally be made directly to the CMRS provider. Slamming generally occurs when an IXC informs a LEC that a customer has requested that the IXC be made the customer's PIC. The LEC then changes the customer's PIC based on the representations of the IXC, without any direct contact with the customer. This does not appear to occur in the CMRS industry. All or most CMRS providers will make service and billing changes only if a customer contacts the CMRS provider *directly* and specifically requests such changes.

²⁰ BellSouth has never received a FCC formal or informal complaint relating to the format of its CMRS bills.

Moreover, there are fewer opportunities for slamming in the CMRS industry than in the wireline telephone business because CMRS carriers are not under any obligation to permit PIC changes. Under Section 705 of the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(8), CMRS carriers are exempt from equal access requirements. As a result, CMRS carriers provide their subscribers with a variety of service packages, in some cases including integrated local and long distance calling under a single rate plan. PIC changes are not compatible with these rate plans. Given the competition among CMRS carriers in offering attractive combinations of local and long distance service, there is little or no opportunity for slamming.

The competitive nature of the CMRS industry also deters any misleading or deceptive billing practices. Because consumers generally may choose between a number of competing CMRS providers, customer satisfaction is critical to maintaining market share. If a CMRS provider engages in deceptive practices, its subscribers can easily change to a competing service provider. Thus, marketplace forces are sufficient to deter the type of billing practices the Commission is attempting to prevent.

Although most measures described in the NPRM cannot reasonably be applied to the wireless industry, the Commission's proposal requiring the name of the reseller (rather than the underlying facilities-based provider) to be prominently displayed on bills is already practiced by most CMRS providers. Thus, a CMRS reseller attempting to create a market presence would not be required to disclose the name of the company that is actually providing service.²¹ This proposal makes sense for the CMRS industry, especially with regard to resale and roaming.

²¹ See NPRM at ¶ 23.

A CMRS licensee offering integrated PCS, long distance and paging services under its brand name should not be required to disclose the name of the long distance companies and paging companies actually providing the services being resold. Resellers often employ a variety of underlying carriers, some of whom may also be resellers. Several levels of resale may actually be involved. As a result, the billing CMRS reseller may be unable to determine the identity of the ultimate service provider. At a minimum, it would be costly and confusing to require a reseller to differentiate among carriers providing service on every call, because the service of numerous carriers may be resold and the carriers themselves may be changed on a regular basis.

This proposal also accords itself well with the practice of CMRS roaming. BellSouth has roaming agreements with a number of wireless providers. Pursuant to these agreements, BellSouth pays a certain rate for its subscribers' calls, which are carried on the networks of other wireless providers. In some cases, BellSouth may pay a wireless carrier more to carry the call than the rate actually charged to the BellSouth subscriber. This practice enables BellSouth to offer subscribers a single roaming rate over a defined geographic area. BellSouth's customers have no contractual relationship with the roamed carriers, and the rate charged to BellSouth customers may bear no relationship to the rates charged by such carriers. Thus, no customer benefits would accrue by requiring CMRS providers to disclose names and contact information for carriers providing roaming services to a subscriber.

By contrast, the Commission's proposal regarding the treatment of deniable and nondeniable charges is inapplicable to CMRS. If a subscriber refuses to pay a valid charge on a CMRS bill, service will be disconnected. BellSouth is unaware of any CMRS provider that provides billing for charges that will not affect continuity of service.

The regulation of CMRS billing practices will increase CMRS costs without a countervailing public benefit. The Commission indicates that it must balance the perceived benefits of any proposed regulation of billing content and format against the cost of implementation.²² In this regard, BellSouth estimates that it would cost between \$500,000 and \$1,000,000 in programming charges simply to add an additional page of CMRS billing information. If the Commission requires CMRS bills to contain information from previous bills (as a comparison to current billing activity), providers would be forced to implement and maintain complex databases, at a cost that would be astronomical. In addition to programming costs, each additional page of information would cost approximately \$0.07 per subscriber per month. This cost must be balanced against the dearth of billing format complaints and the fact that even without Commission intervention, CMRS carriers include a variety of informative elements in their bills that are similar to some of the Commission's billing format proposals. A number of BellSouth's affiliates providing CMRS service furnish a summary page with all bills specifying charges by service (*e.g.*, roaming, long distance, *etc.*), as well as a local or toll-free number for all billing questions.

VII. CHARGES ASSOCIATED WITH FEDERAL REGULATORY ACTION

The adoption of uniform terminology to designate charges associated with Federal regulatory action would be highly beneficial to consumers and--it is believed--would substantially reduce the volume of calls received each month by BellSouth business offices which are generated by the appearance of such charges on consumer bills. To the extent carriers elect to recover the costs associated with Federal regulatory action through separate, line item charges the nature and purpose of such charges should be accurately described. By contrast,

²² NPRM at ¶ 11.

BellSouth does not favor mandated disclosure of countervailing benefits of government action; since this information would be difficult to develop and maintain at an end user level, would be of little use to consumers in their selection of competitive preferences and would add unnecessary complexity to the bill.

BellSouth believes that the formulation of “safe harbor” language to describe charges resulting from Federal regulatory action might assist some carriers in explaining the charges and some consumers in making service and rate comparisons. To that end, BellSouth proposes the following “safe harbor” provisions applicable to universal service assessments:

The 1996 Telecommunications Act requires all interstate carriers and service providers, including payphone aggregators and private network operators, to contribute to a Universal Service Fund. This fund will help provide discounted telecommunications services to schools, libraries and low-income consumers. To recover the amount deposited into the fund, the applicable USF charge may be added as a separate line item on your bill, and, if present, is identified as “Unv Svc Fund Charge.” If you have any questions regarding this charge, please call customer service at XXX-XXXX.

BellSouth shares the concern, expressed by Commissioner Powell, that the adoption of “safe harbor” language does not operate directly or indirectly to abridge the First Amendment freedoms of billing carriers.²³ Whether or not “safe harbor” language is employed, a description of the charge should be included periodically on the billing statement (*e.g.*, with the customer’s first bill and annually thereafter). More generally, public education regarding the nature and

²³ “It is my sincere expectation that the proposal to adopt ‘safe harbor’ language for use by carriers who choose to recover their universal service contributions and access charge costs through explicit line items on customers bills not degenerate into an effort to pressure long distance companies, even indirectly, to remove such line items.” NPRM, *Separate Statement of Commissioner Michael K. Powell*, p. 36.

purpose of these charges can also be accomplished through Commission releases, bill inserts and statements provided with telephone directory white pages.

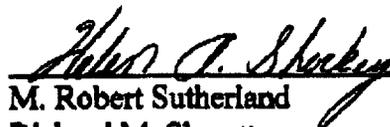
VIII. CONCLUSION

With this proceeding the Commission should aim to formulate guidelines reflecting a consensus among Federal and state regulators and applicable to billing practices across jurisdictional boundaries. These guidelines must be sufficiently flexible to accommodate differences among billing entities and the introduction of new customer-requested billing options, which is especially necessary in a competitive marketplace. Finally, it would be unrealistic to suppose that the abuses noted by the Commission in its NPRM can be fully addressed through billing reforms alone. Vigilant oversight—and where necessary, vigorous prosecution—by Federal and state authorities remains necessary to protect the public against that minority of service providers whose competitive strategy depends upon public deception.

Respectfully submitted,

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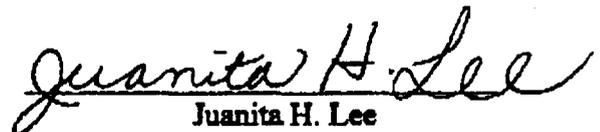
CERTIFICATE OF SERVICE

I do hereby certify that I have this 13th day of November 1998 served the following parties to this action with a copy of the foregoing COMMENTS by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed below.

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